

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jurgens Schulz Art Unit : 3627  
Serial No. : 10/553,292 Examiner : Obaid, Fateh M.  
Filed : November 10, 2006 Conf. No. : 8644  
Title : METHOD AND DEVICE FOR DISTRIBUTING PACKAGES AND  
OTHER SIMILAR DISPATCHED ARTICLES

**MAIL STOP AF**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office OB Notices: 12 July 2005

– New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

In the Advisory Action issued 1/20/2011, the Examiner has maintained his rejection of claims 1-23 as being unpatentable over *Bloom*<sup>1</sup> in view of *Robare*<sup>2</sup>. In particular, the Examiner states that the “[a]pplicant’s arguments filed on 12/17/2010 have been considered but they are not persuasive.”<sup>3</sup>

*Bloom* discloses a method and system for “efficient bulk package delivery for recipients.”<sup>4</sup> The method involves retailers or manufacturers fulfilling orders in bulk and shipping the bulk orders to a nearby regional distribution center (RDC). At the nearby RDC, the bulk orders are sorted into separate bulk shipments based on their destination. The sorted bulk shipments are shipped to their respective destination RDCs where they are sorted and distributed to recipients.

<sup>1</sup> Bloom, U.S. Patent Publ. 2002/0130065 A1.

<sup>2</sup> Robare, US Patent 6,601,073 B1.

<sup>3</sup> Advisory Action, Page 2.

#### *Review Abstract*

*Robare* discloses “a database architecture for using geographic data to provide navigation related functions.”<sup>5</sup> This involves a data access layer that accepts requests from navigation program applications and accesses the database to fulfill the requests.

*Independent Claims 1 and 11*

In making his §103 rejection of claims 1 and 11, the Examiner acknowledged that *Bloom* alone fails to disclose “...sensor units for detecting identification data, package sizes (length, width, height, weight), addresses and geo coordinates, respectively” but argued that *Robare*, interpreted broadly, discloses this feature.<sup>6</sup> The Examiner contended that it would have been obvious to modify *Bloom* to include *Robare*’s sensors to provide the advantage of faster sorting and distribution of the items to the destination.<sup>7</sup>

In response to the non-final office action, the Applicant argued that neither *Bloom* nor *Robare* separately or in combination discloses “combining in the HUB center the package codes with data sets comprising measurement data (length, width, height, weight), geo coordinates (addresses) and identification data of the packages, respectively, to controllable routing codes respectively,” as recited in independent claim 1. Additionally, the Applicant argued that neither patent discloses “sensor units for detecting identification data, package sizes (length, width, height, weight), addresses and geo coordinates, respectively,” as recited in independent claim 11.

Rather, the Applicant contended that *Robare* discloses a navigation system, including a sensor<sup>8</sup> suitable to “...measure the speed, direction, angular acceleration, and so on, of the vehicle.”<sup>9</sup> *Robare*’s sensors, however, do not provide the data recited in claims 1 and 11 as discussed above. Therefore, even if one skilled in the art was to modify *Bloom*’s system and method to include *Robare*’s sensor (which we do not concede), that person would not have arrived at the inventions as recited in claims 1 and 11.

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<sup>5</sup> *Robare*, Abstract.

<sup>6</sup> Non-Final Action, Page 3, line 6.

<sup>7</sup> Non-Final Action, Page 3, line 10.

<sup>8</sup> *Robare*, FIG. 1, Element 25.

<sup>9</sup> *Robare*, Column 3, lines 57.

In the final office action, with respect to the invention recited in independent claim 11, the Examiner characterized the Applicant's **Argument A** as:

*"This fails to disclose sensor units for detecting identification data, package sizes (length, width, height, weight), addresses and geo coordinates, respectively."*<sup>10</sup>

The Examiner reminded the Applicant "that claims must be given their broadest reasonable interpretation" and contended that *Robare* discloses the features presented in **Argument A** as:

**"Each of these locations 116 has a unique physical location (latitude, longitude, and optionally absolute or relative altitude) and each of the locations 116 can be uniquely identified by its two dimensional (or three dimensional) geographic coordinates (i.e., latitude, longitude, and optionally altitude)."<sup>11</sup> (Emphasis added by the Examiner.)**

The Applicant believes that the Examiner was using the cited section to equate *Robare's* sensor which identifies three dimensional geographic coordinates to the "sensor units for detecting ... package sizes (length, width, height, weight)" recited in independent claim 11.

Based on this belief, we disagree with the Examiner's objection to **Argument A**. We submit that even given the broadest reasonable interpretation of claim 11, Figs. 5-6 and col. 8 lines 35-67 of *Robare* do not disclose sensor units for detecting "package sizes (length, width, height, weight)" as recited in independent claim 11.

Rather, the cited section of *Robare* discloses identification of geographic coordinates that represent a point in three dimensional space. Such a general teaching of identifying points in three dimensional space is not equivalent to "sensor units for

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<sup>10</sup> Final Action, Page 6, line 15.

<sup>11</sup> *Robare*, FIGs. 5-6, Column 8 Lines 35-67.

detecting ... package sizes (length, width, height, weight)." For example, sensing a package's three dimensional geographic location (e.g., Latitude: 42.3583333, Longitude: -71.0602778, Altitude: 9 ft) does not in any way provide or suggest a package's size (e.g., 2 ft long, 3 ft wide, 1 ft high, and weighing 25 lbs).

For these reasons, the Applicant submits that the Examiner's rejection is not proper because the assertion that *Robare* discloses "sensor units for detecting ... package sizes (length, width, height, weight) is factually deficient.

Furthermore, the Applicant notes that identical or similar versions of independent claims 1 and 11 have been found to be patentable in a plurality of countries, for example, Europe (EP 1 615 730), Russia (RU 2 337 768), India (IN233594), China (CN200480013255), and Australia (AU20044230263).

#### *Dependent Claims*

Regarding claims 1-10 and 22-23, the Examiner stated in the final office action that "all limitations as recited have been analyzed and rejected with respect to claims 11-19 and 22-23. Claims 1-10 and 20-21 pertain to a method corresponding to the system of claims 11-19 and 22-23."<sup>12</sup>

However, the Applicant cannot find a system claim that corresponds to method claim 10. Therefore, the Applicant disagrees with the rejection of dependent claim 10 for the reason that it hasn't been properly examined.

In the rejection of dependent claim 15, the Examiner contends that *Bloom* discloses "wherein as a support device for sorted package stacks a transport box having standardized dimensions is provided" as recited in claim 15 with the following:

*"The labeled cases filled with ordered items can be stacked tightly on the retailer's shipping dock conveyor in a manner similar to how boxes would be stacked on pallets. ... The cases can be stacked to make use of space as*

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<sup>12</sup> Final Action, Page 6, line 3.

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*efficiently as possible without extending beyond the edges of the dock conveyor. ...*<sup>13</sup>

The Applicant submits that *Bloom* does not disclose “a support device for sorted package stacks a **transport box having standardized dimensions is provided.**” Instead, *Bloom* discloses the stacking of cases “to make use of space as efficiently as possible” and “in a manner similar to how boxes would be stacked on pallets.” This is clearly different than providing “a transport box having standardized dimensions” as is required by dependent claim 15.

In view of the foregoing clear factual deficiencies in the rejection, the Applicant requests reversal of the section 103 rejection of all claims.

Respectfully submitted,

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Frank R. Occhiuti  
Reg. No. 35,306

Customer No. 69713  
Occhiuti Rohlicek & Tsao LLP  
10 Fawcett Street  
Cambridge, MA 02138  
Telephone: (617) 500-2503  
Facsimile: (617) 500-2499

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<sup>13</sup> *Bloom*, Paragraph 82.